THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20752 OF 2006

DATED 12th MARCH, 2007

Between

Makkena Anjaneyulu and others.

... Petitioners

AND

The Gram Panchayat, Pedda Reddypalem, rep.by its Sarpanch, Narasaraopet Mandal, Guntur District and others.

.... Respondents

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ORDER:

The petitioners are residents of Pedda Reddypalem village of Narasaraopet Mandal in Guntur District. They allege that they are agriculturists having cattle, cattle sheds and hayrick yards. Their lands are situated in survey No.207 of the village. It is their case that survey No.208 was a water body, which was serving the needs to the village, but later it became defunct. The Tahsildar, Narasaraopet got a layout prepared and distributed house site pattas to people belonging to scheduled tribe community. The beneficiaries constructed houses and residing in survey No.208. The area is provided pucca cement roads, water facilities, community hall etc. On the western side of the said colony, there is a tank bund separating the land in survey Nos.207 and 208. Though the same is shown in the layout plan as a road, but it is not being used as a road as on the southern side of the colony there is R&B road. Due to passage of time, the road disappeared and it is being used by the residents of the colony as if it is part of the house. This portion has drainage channel where all the drain from agricultural fields get collected and whenever there is a heavy rain, overflow gets into the locality causing inconvenience to residential houses. In spite of the same, respondents proposed to break the existing tank and lay a pucca road, which is illegal. Therefore, the petitioners filed the instant

writ petition seeking appropriate declaration and direction.

At the stage of Admission itself, the first respondent filed counter affidavit denying the petition averments. It is stated that the land in survey No.208, which was earlier a water body, was assigned to scheduled tribe people in 1970 and in between the S.T.Colony in survey No.208 and the land in survey No.207, a 40 feet wide road was laid in 1970. The petitioners have houses facing this road and they have encroached upon the road by erecting cattle sheds and garbage dumps causing sanitation problems and traffic congestions. There is no tank bund existing and therefore, the allegation that the tank bund is being converted into road is not correct. As the petitioners encroached upon the road, they were asked to remove the cattle, garbage and cattle sheds. The Gram Panchayat, however, did not take any action for removal of the encroachments. The writ petition is premature.

Heard the learned counsel for the petitioners, learned standing counsel for Panchayats and learned Assistant Government Pleader for Mandal Revenue Officer. Perused the material placed before this Court.

Along with the writ petition, the petitioners have enclosed the layout of house sites in survey No.208. As rightly pointed out by the learned standing counsel for Gram Panchayat, there is no tank bund between the land in survey No.207 and survey No.208 (which is now S.T.Colony). There is already 40 feet wide road between the two areas and if the same is proposed to be made into pucca road, it is only in the interest of the public in the area. The petitioners cannot have any grievance about the same. However, if the petitioners encroached upon the 40 feet wide road on the western side of the Colony, needless to mention that unless and until they are removed from the encroached area by following due process of law, coercive action cannot be taken against them. The first respondent made an averment that orally the petitioners were asked to remove the encroachments and action is yet to be initiated for removal of the encroachments. The same is recorded.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

12.03.2007.
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